

**REPORT TO SOUTH AYRSHIRE SUSTAINABILITY FORUM
OF 5 March 2008**

SUBJECT: Scottish Climate Change Bill Consultation

1. Purpose.

To inform the Sustainability Forum of the key elements of the consultation on proposals for the Scottish Climate Change Bill.

2. Background.

On 29th January 2008 the Scottish Government launched a consultation on a Bill to create a long-term framework to reduce Scotland's carbon emissions by 80% by 2050 and set a programme for the country's sustainable economic growth by moving the public and private sectors towards a low carbon economy. It is intended that the measures will be complementary to the UK Climate Change Bill introduced in November 2007, which set a UK target of 60% carbon emission reduction by 2050. It is estimated that approximately 2/3 of the impact of the UK Bill will be deliverable via the devolved administrations. Key areas of UK influence not available to the Scottish Government through devolved powers include fuel pricing, energy policy, and product standards, for example.

3. Considerations

The consultation document provides a comprehensive summary of the scientific background and issues around climate change relating to Scotland in an international context. This Bill has the potential to be an important driver across a wide spectrum of Scottish life. The consultation sets out the challenges, opportunities and difficulties around a number of issues of delivery and reporting, especially around effective meshing with other UK, European, and International targets, timetables and mechanisms.

Reducing carbon emissions is a strategic target of the Government's economic strategy, and the annual Spending Review will continue to develop the principle of cross-compliance to ensure decisions across all policy areas take full account of carbon reduction targets. This will create challenges for the land-based industries and opportunities for developing renewables markets, for example, but it is anticipated that early action will benefit the Scottish economy by aiding investment confidence.

The consultation closes on 23rd April 2008, and subject to the outcome of consultation exercise it is hoped to have the Bill ready for presentation to Parliament by the end of the year.

The principal themes and key issues are summarised below:

3.1 Context and background

The Scottish Government acknowledges the conclusions of the Inter-Governmental panel on Climate Change (IPCC) of the 2^o Celsius global warming threshold

currently “locked-in” to the system for the next 40 years as a result of past and current carbon emission levels and the recommendation to the UK Government of the economist Sir Nicholas Stern of the need for policy to reflect the most recent science.

Scotland has net annual carbon emissions of 54m tonnes, 0.15% of world total, with 0.08 % world population, not including those elements of consumption which reflect emissions outwith Scotland.

3.2 Targets

The consultation suggests models, sets out some options and considerations and invites comment on the design and application of targets, for example, whether they should be production or consumption related, relate solely to CO₂ as the major contributory factor, or a “basket” of greenhouse gases with “CO₂ equivalent” rating, and individual targets for each. Powers could be sought to extend the target gases over time, if thought desirable. There is also a question as to whether there should be separate targets for different sectors of the economy, but this is viewed as potentially restricting flexibility. There is a clear preference for emission based targets rather than consumption based footprint measures, which are not regarded as methodologically robust enough for statutory targets. End-user inventories are thought preferable to source inventories to capture power and fuel consumed in Scotland.

Although the headline target is a “point” target of 80% reduction by 2050, which will facilitate comparison with other programmes, the value of cumulative targets in delivering reductions with greater certainty and with potentially greater cost-effectiveness is recognised as applicable through the mechanism of setting interim carbon budgeting periods. The Kyoto base dates of 1990 for CO₂, Nox and methane, and 1995 for the so-called F-gases, the fluorocarbons and others, will apply.

It is proposed to make appropriate use where necessary of international credits and carbon trading schemes, which will be applicable in line with established principles of supplementarity, i.e. they must be the minority of the contribution, and fully compliant and verified in terms of the Kyoto protocol.

International shipping and aviation are intended to be excluded, but powers will be sought to amend the legislation in future in line with international agreements currently under negotiation. However, it is the Government’s aim to ensure that policies should be designed with a view to reducing overall global emissions, not just Scottish ones.

The 80% target is recognised as being extremely challenging, with many key influencing factors outwith Government control, either as matters reserved to the UK government, or dependent on widespread international agreement and action. Emissions from certain sectors such as agriculture will be difficult to reduce without constraining productivity or reducing economic activity. However, the Government are satisfied the target reflects Scotland’s relative affluence, and provides ambition and incentive. The Government is also mindful of the risk that reducing Scottish emissions may result in corresponding increases outwith Scotland, and will endeavour to identify and mitigate that risk.

Finally, with respect to targets, a mechanism needs to be created to allow for changes to the target in future reflecting the changing scenario. This would require to be carefully considered to include appropriate qualifications and safeguards.

3.3 Supporting Framework

The need for interim targets to set the trajectory for emission reduction while striking a balance between flexibility of achievement and providing a firm business

investment environment is set out. Although non-committal on the matter of interim point targets, the consultation suggests establishing “emissions budgets” over a series of time periods of between five and eight years to allow and absorb annual fluctuations, permitting year-on-year flexibility through banking and crediting mechanisms. This would specify the total amount of emissions permitted over a specified period. Length of periods could relate to financial budgets to allow appropriate investment planning to acquire carbon credits, if necessary, or to match international profiles. This will result in a series of carbon budgets for Scottish emissions to follow a trajectory towards the 2050 target, and encourage regular scrutiny and review to allow banking and borrowing within budgetary periods.

Setting appropriate budget levels is also recognised as a complex issue, as is the timing to allow response to lags in emissions reporting and lead times for credit budgeting and investment planning. The budgets require to be challenging to provide an incentive, but be flexible to reflect changing social, economic, technological projections, as well as new scientific assessments and international developments. Excessive banking, for example, would suggest targets were too low, and views are sought on any restrictions on the amounts of “carry-over” of credit or debit that might be allowed.

Overall the interim budgets are expected to deliver reductions equivalent to, or in excess of, the Government’s original annual target of 3% without enshrining that original aspiration in statute.

3.4 Reporting and Scrutiny

It is intended there should be a regular and comprehensive regime of scrutiny and reporting of progress annually within a multi-year budget process. It is proposed there be an annual measure of progress towards achieving the Governments targets in terms of emissions, and additional reporting associated with the interim budget periods relating to policy development, credit balances and progress of adaptation objectives. Other reporting options could include emissions forecasts, impact predictions, energy efficiency, renewables capacity, and the Scottish element of international maritime and aviation emissions.

This reporting framework is intended to strengthen accountability and build confidence in the process. Where carbon budgets or targets are not met, Ministers will be required to account to Parliament on measures to recover the trajectory.

The new framework will require new functions around budget setting, monitoring, research and information gathering. There is a duty to obtain and publish transparent, robust and independent advice on when, and to what level, cuts in emissions should be made. The Government is minded to use the proposed UK Climate Change Committee in short term at least, reviewing its effectiveness after 3 years, but seeking powers to establish a specific Scottish body if required, and seeks views on any existing Scottish body or bodies that might fill this role.

3.5 Support Measures

In a wider sense, the Bill seen as a potential vehicle for developing the regulatory framework for micro-renewable generation, energy efficiency standards, Combined Heat and Power, waste and recycling policy, and carbon storage.

The public sector is particularly identified, being within the legislative competence of the Government, as having a key role to play in reducing emissions in Scotland due to its size (23.4% of the Scottish workforce). It is envisaged that the Single Outcome Agreements arising out of the Concordat with local authorities will include carbon emission reduction targets. This may well extend more widely to other public bodies through involvement of Community Planning Partnerships. The initial focus is to

maintain the voluntary approach, with no formal targets or reporting mechanism requirement for the public sector as is currently the case with local authorities through the Scottish Climate Change declaration, but powers could be sought to implement regulatory measures if required. This might include imposing duties on local authorities to, for example, determine emissions, reduce corporate emissions, meet specific targets, make an equitable contribution to national climate change targets, consider climate change in policies and investment decisions or take account of emissions in procurement contracts. Any such proposals, would however, be subject to additional consultation as the secondary legislation was in preparation. There may also, in time, be a specific requirement for Councils to report on actions to reduce emissions.

Other support could include statutory guidance. The current Best Value guidance on sustainable development may also be amended to take specific account of climate change mitigation and adaptation. It may be necessary to review existing Strategic Environment Assessment legislation to permit clearer links with climate change to be established through this process. Opinion and comment is sought on all of the foregoing, and the consultation also invites views on other devolved legislation which may benefit from review in this context.

4. Next Steps

There are 33 specific questions throughout the consultation across all themes, and these are detailed in the Annex. Some proposals are clearly at a more advanced stage of consideration than others, and there is ongoing analysis and consultation with interest groups across Scotland with a number of Workshops and guidance programmes taking place. Consultation closes 23rd April 2008. South Ayrshire Councils response will be finalised by the end of March, and anyone seeking to submit contributions for consideration as part of that exercise is invited to do so via the Sustainability Forum.

The Bill, and further associated information can be accessed on-line at www.scotland.gov.uk/climatechangebill

Anyone wishing to respond direct can do so on-line via: <http://www.scotland.gov.uk/consultations/environment/climatechange.asp>

Following the consultation a summary and analysis will be published in the summer, subsequent to which the Government will decide the final content of the Bill prior to drafting.

5. Recommendations.

Partners are invited to consider the issues set out and the questions annexed and make comment as appropriate.

Person to Contact. Ken Gibb, Sustainable Development Manager, South Ayrshire Council
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Date. February 2008

ANNEX A

CONSULTATION ON PROPOSALS FOR A SCOTTISH CLIMATE CHANGE BILL : SUMMARY OF QUESTIONS

TARGETS

1. Should a Scottish target be based on carbon dioxide only or the basket of six greenhouse gases?
2. Should the Bill contain provisions to alter which gases are included, for example if the reliability of data for a particular gas improves or if science changes in the future about which gases cause climate change?
3. The Scottish Government wishes to ensure that the Bill gives sufficient incentives to invest in energy efficiency and renewable electricity. Should the targets be based on source emissions; an end-user inventory; or on individual targets for energy efficiency and renewable electricity? Do you have any other suggestions?
4. Do you agree that the Bill should allow the means of measuring the target to be changed through secondary legislation to reflect international developments or unforeseen consequences of the Bill?
5. Should the emissions reduction target take account of the abatement effort made by companies under emissions trading schemes? If so, how?
6. Do you agree that international credits should be counted towards Scottish targets? Should there be limits on credits counted towards Scottish targets?
7. Should the Bill allow the level of the 2050 target to be changed through secondary legislation? If so, should this only be allowed on the basis of independent, expert advice, to reflect international developments or unforeseen consequences of the Bill? Should any changes to the target be limited to an increase in the target?

SUPPORTING FRAMEWORK

8. What factors should be taken into account when setting the level of budgets?
9. How long should interim budget periods be?
10. How many years in advance should emissions budget periods be set in order to provide sufficient time to develop infrastructure?
11. What should be the limit (in terms of absolute quantity or as a percentage of the budget period) on the amount of emissions which the Government can borrow from a following budget period?
12. Should the Bill include an interim point target? If so, what year (or years) should it be for (2020, 2025, 2030, etc.)? How should the level be chosen?

REPORTING SCRUTINY AND FRAMEWORK

13. Should the Scottish Ministers be required to report on any other issues related to climate change in addition to the requirements already set out. If so, what and how often?

14. Is a process of Parliamentary scrutiny the appropriate way of holding the Scottish Government to account if targets or budgets are not met?

15. What should be the primary source of advice to the Scottish Government for setting emissions targets or budgets and why? Options include: the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself.

16. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

17. Which organisation should be tasked with monitoring the progress of the Scottish Government on reducing emissions and why? Options include: the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself.

18. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

19. Should additional independent mechanisms for scrutinising the effectiveness of the Scottish Government's policies in reducing emissions be created by the Bill (in addition to any scrutiny already provided by the Scottish Parliament)?

20. If so, which organisation is best placed to carry out this function and why? Options include a new Scottish Committee on Climate Change or an existing public body in Scotland.

21. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?

22. Are there any other functions related to climate change, existing or new, which should be carried out at arm's length from the Scottish Government and why?

SUPPORTING MEASURES

23. Should the Bill contain enabling powers to introduce a duty on certain parts of the public sector (i.e. local authorities and large public bodies) to take specified actions on climate change or other specified environmental issues? Why?

24. What should such a duty (or duties) include?

25. Should the Bill contain enabling powers to introduce statutory guidance for certain public sector bodies (i.e. local authorities and large public bodies) on specified climate change or other environmental measures? Why? Are there gaps in any existing guidance?

26. What should this guidance include?

27. Should the Bill contain enabling powers to create a requirement for certain public sector bodies (i.e. local authorities and large public bodies) to make regular reports on specific measures they are taking to tackle climate change (whether mitigation or adaptation) or other environmental issues? Why? What should be included in such reports?

28. As a potential non-legislative measure, should current Best Value guidance be amended to take specific account of climate change mitigation and adaptation? If so, how should Best Value guidance be amended?

29. Are there any amendments to existing legislation or any enabling powers needed to allow for variable charging (for example by local authorities) to incentivise action or eliminate perverse incentives?

30. Are there any provisions to help Scotland adapt to the impacts of climate change which should be included in the Scottish Climate Change Bill?

31. Should provisions within the Environmental Assessment (Scotland) Act 2005, be amended in order to provide clearer links with emissions reduction? If so, how should this be done?

32. What are the equalities implications of the measures in the proposals for the Scottish Climate Change Bill?

33. Is there any existing legislation within the competence of the Scottish Parliament (devolved) which needs to be amended so that appropriate action on climate change can be taken by sectors in society?